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VIA ECFS

EX PARTE

July 16, 2012

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Special Access Rates for Price Cap Local Exchange Carriers*, WC Docket No. 05-25

Dear Ms. Dortch:

On July 12, 2012, Jennie Chandra spoke via telephone with Angela Kronenberg, Wireline Legal Advisor to Commissioner Mignon Clyburn, regarding the above-referenced proceeding. Windstream reiterated its concern that some ILECs that have Phase II pricing flexibility will use this flexibility to increase prices significantly, with little notice to purchasers, while more comprehensive special access reform is under Commission consideration. Windstream recommended that the Commission ensure, as an *interim* measure pending the completion of more comprehensive reform, that further increases in special access rates are not effectuated by any carrier that has Phase II pricing flexibility. This measure would not mandate reductions in existing special access rates; it only would prevent additional, harmful price *increases* while more comprehensive reform is pending. Effectively Windstream's recommendations would maintain the status quo for special access purchasers and sellers—reducing uncertainties that otherwise could discourage new broadband investments in the near term.

At a minimum, Windstream urged the Commission to suspend future operation of the Phase II pricing flexibility rules and to issue an affirmative warning in the suspension order that the Commission will closely scrutinize any price change that results in an increase in the rates for special access services in areas already subject to Phase II pricing flexibility. Operation of the Phase II pricing flexibility rules should be suspended because those rules are a poor proxy for identifying areas subject to competition.¹ Given the flaws in the pricing flexibility rules, the Commission cannot be confident that prices for special access services subject to Phase II pricing flexibility are constrained by competition. Close scrutiny of price increases for special access services subject to Phase II pricing flexibility would therefore be entirely justified.

¹ See, e.g., Letter from Thomas Jones, Counsel for tw telecom, to Marlene H. Dortch, Secretary, FCC, WC Dkt. No. 05-25 et al., App. A., 1-2 (filed June 18, 2012).

Please feel free to contact me if you have any questions or need more information.

Sincerely yours,

/s/ Malena F. Barzilai

Malena F. Barzilai

cc: Angela Kronenberg